

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1.
 - a. Whether there should be additional reimbursement for dates of service 01/19/01?
 - b. The request was received on 01/14/02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC 60 and Letter Requesting Dispute Resolution dated 03/19/02
 - b. HCFA-1450s/UB-92s
 - c. EOBs
 - d. Reimbursement data (EOBs from other carriers)
 - e. Medical Records
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC 60 and Response to a Request for Dispute Resolution dated 04/23/02
 - b. Carrier's payment methodology
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. The MDR case file does not contain proof of delivery per Rule 133.307 (g)(3&4). Therefore, all documentation submitted by the Requestor and Respondent will be considered.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 03/19/02 states,
"We are appealing the amount disallowed on the above mentioned claim. These charges are for **FACILITY FEES**, not professional fees. We feel that 39% paid on a right carpal tunnel is not fair or reasonable."
2. Respondent: Response dated 04/23/02 states,
"The Carrier, in determining what constitutes a 'fair and reasonable rate' did consider the Medicare, PPO, and HMO payments, and reviewed the Commission's own guidelines for acute care. Acute care guidelines state that \$1118.00 is a valid reimbursement for a full day on inpatient care..."

IV. FINDINGS

1. Based on Commission Rule 133.307 (d)(1&2), the only date of service (DOS) eligible for review is 01/19/01.
2. The provider billed a total of \$2,897.81 on the DOS in dispute.
3. The carrier reimbursed a total of \$1,118.00 for the DOS in dispute and their EOB states, "M - IN TEXAS, OUTPATIENT SERVICES ARE TO BE PAID AS FAIR AND REASONABLE."
4. The amount in dispute is \$1,779.81, the difference between the billed amount and the amount of reimbursement received for the DOS in dispute.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, "shall be reimbursed at a fair and reasonable rate..."

Section 413.011 (d) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

The provider has submitted reimbursement data to document what they consider fair and reasonable reimbursement. The provider has submitted EOBs from other carriers, these EOBs indicate that the provider has accepted from 85% to 100% of the billed amount as fair and reasonable reimbursement. The provider's documentation does provide some evidence of fair and reasonable reimbursement.

The Carrier has also submitted reimbursement data to document what they consider fair and reasonable reimbursement, and to comply with Commission Rule 133.304 (i)(1-4). The carrier compares the amount of reimbursement the provider received with the amount of reimbursement allowed for hospital per diem for inpatient surgery [Commission Rule 134.401 (c)(1)], Medicare, PPO, and HMO payments. The carrier has submitted their methodology and though, the entire methodology may not necessarily be concurred in by the Medical Review Division, the requirements of the referenced Rule have been met.

Due to the fact that there is no current fee guideline for ASCs, the Medical Review Division has to determine, based on the parties' submission of information, what best represents fair and reasonable reimbursement. The documentation submitted by the Requestor is not as persuasive as the methodology used by the carrier, which also conforms to the criteria of Sec. 413.011(d) of

the Texas Labor Code, “to achieve effective medical care cost control.” Therefore, no additional reimbursement is recommended.

The above Findings and Decision are hereby issued this 21st day of May, 2002.

Larry Beckham
Medical Dispute Resolution Officer
Medical Review Division

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.